

REMARKS

In the Office Action of May 30, 2003, the Examiner objected that trademarks were still used in the Specification without accompanying generic language.

With the present amendments the trademarked adjuvants are identified generically on page 10. These same trademarked products are referred to as polymer based adjuvants and oil adjuvants where they first appear on page 9.

Claim 27 is amended to recite "an immunogenic composition comprising inactivated *L. intracellularis*, which is the *L. intracellularis* strain deposited as ATCC deposit No. 55370, and an adjuvant.

Claim 5 is amended to be dependent on claim 27. Non-elected claims are now cancelled.

With these amendments, it is believed that the objections and rejections raised by the Examiner are overcome.

Claims 3-5, 27-29 and 31 were rejected under 35 U.S.C. 112, first paragraph, alleging that the immunogenic characteristics of ATCC deposit No. 55370 do not appear in the specification.

It is submitted that the immunogenic characteristics are inherently defined by the deposited organism and, in particular, are further defined with respect to the 21, 31, 41, 43, 44, 60, 71, 115 and >115 kDa antigens as set forth in the Specification and claims as originally submitted. Having the organism, the ordinary skilled practitioner by well known and routine methods can determine its immunogenic characteristics and compare them against any other available strain. With the present amendments the claims are directed to compositions comprising *L. intracellularis* strains defined by the ATCC deposit No. 55370.

Claims 3-5, 27-29 and 31 were rejected under 35 U.S.C. 112, second paragraph for use of the terms "protective antibodies" and "immunogenic characteristics."

It is submitted that the meaning of "protective antibodies" is well known in the art and supported in the Specification. "Immunogenic characteristics" are addressed above. As now amended, these terms have been cancelled as unnecessary to define the claimed composition.

Claims 3 - 5, 27 - 29 and 31 were rejected under 35 U.S.C. 102 (b) and 35 U.S.C. 103 (a) for being anticipated or obvious over Knittel et al (WO96/369629). Knittel et al is said to disclose an *L. intracellularis* strain in

Attorney Docket Number 2000.611 US PD

vaccines that could have the same immunological profile as the present strain.

With the present amendments the claimed compositions are compositions comprising strains defined by ATCC deposit No. 55370. There is no suggestion in Knittel et al that would lead the ordinary practitioner to a 55370 strain. Moreover, combined with Joens et al., there would be no basis for a reasonable expectation of success in producing a successful immunogenic composition with 55370 as this art is inherently unpredictable, which was recognized by the Examiner in his comments.

Applicant respectfully submits that claims 3-5, 27-29 and 31 are in condition for allowance. Favorable action is solicited.

Respectfully submitted,



William M. Blackstone
Attorney for Applicant
Registration No: 29,772

Akzo Nobel Patent Department
Intervet Inc.
405 State Street
P.O. Box 318
Millsboro, DE 19966
Tel: (410) 464-0581
Sec: (302) 933-4027
Fax: (302) 934-4305